

REMARKS

Amendments to the Claims

Applicants have amended claims 26, 27, 31, 38, 40, 44, and 45, and canceled claims 28 and 29 without prejudice or disclaimer of their subject matter. The amendments to claim 26 include features recited in claims 28 and 29, now canceled. No new matter has been introduced. Upon entry of this Amendment, claims 26, 27, and 30-50 remain pending and under current examination.

Final Office Action

Applicants respectfully traverse the rejections in the Final Office Action, wherein the Examiner:

(a) rejected claims 26-30 and 44-50 under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 6,173,185 B1 ("Bernardin"); and

(b) rejected claims 31-43 under 35 U.S.C. § 103(a) as being unpatentable over Bernardin in view of U.S. Patent No. 6,047,238 ("Olofsson").

Rejection of Claims 26-30 and 44-50 under 35 U.S.C. § 102(b)

The rejection of claims 28 and 29 is moot by virtue of the cancellation of these claims. Applicants request reconsideration and withdrawal of the rejection of claims 26, 27, 30, and 44-50 under 35 U.S.C. § 102(b) as being anticipated by Bernardin.

In order to establish anticipation under 35 U.S.C. § 102, the Final Office Action must show that each and every element as set forth in the claim is found, either expressly or inherently described, in Bernardin. See M.P.E.P. § 2131. Bernardin, however, does not disclose each and every element of Applicants' claims.

Specifically, Bernardin does not disclose or suggest at least the following features recited in independent claim 26:

wherein each second quantity is computed for the respective second area also as a function of the first quantities computed for first areas surrounding the first area containing said respective second area, and

wherein in the computation of each second quantity for the respective second area, the first quantities computed for the first areas surrounding the first area containing said respective second area are each weighted by using a respective weight which is inversely proportional to the distance between said respective second area and the corresponding first area.

The Final Office Action alleges that Bernardin discloses the above-quoted features and points to col. 4, lines 24-26 for Bernardin's disclosure of a "fade margin." *See* Final Office Action, p. 6. Applicants respectfully disagree with the Final Office Action's allegations.

Bernardin discloses that the "fade margin" is a quantity to "account for other attenuation" (col. 4, lines 52-53), and that the "fade margin, $FM\sigma$, [which] ensures the desired service reliability" (col. 5, lines 42-43), is calculated by equation (3) of Bernardin. Bernardin also discloses that "[f]or example, cell edge reliabilities of 75% and 90% correspond to fade margins of about 0.675σ and 1.282σ ." Col. 5, lines 55-56. Bernardin, however, does not disclose that the fade margin, $FM\sigma$, is "inversely proportional to the distance between said respective second area and the corresponding first area," as recited in claim 26. Nor does the fade margin $FM\sigma$ constitute the claimed "second quantity" or the claimed "first quantities" recited in claim 26.

Thus, Bernardin fails to disclose each and every element recited in independent claim 26. Accordingly, claim 26 is not anticipated by Bernardin and should be allowable. In addition, dependent claims 27, 30, and 44-50 should be allowable at least by virtue of their dependence from base claim 26, and because they recite additional features not disclosed by Bernardin. Applicants therefore respectfully request withdrawal of the 35 U.S.C. § 102(b) rejection.

Rejection of Claims 31-43 under 35 U.S.C. § 103(a)

Applicants request reconsideration and withdrawal of the rejection of claims 31-43 under 35 U.S.C. § 103(a) as being unpatentable over Bernardin in view of Olofsson. The Final Office Action has not properly resolved the *Graham* factual inquiries, the proper resolution of which is the requirement for establishing a framework for an objective obviousness analysis. *See* M.P.E.P. § 2141(II), citing to *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), as reiterated by the U.S. Supreme Court in *KSR International Co. v. Teleflex Inc.*, 550 U.S. 398, 82 USPQ2d 1385 (2007).

In particular, the Final Office Action has not properly determined the scope and content of the prior art. Specifically, Bernardin and Olofsson do not teach or suggest what the Final Office Action attributes to them. In addition, the Final Office Action has not properly ascertained the differences between the claimed invention and the prior art, at least because it has not properly interpreted the prior art and considered both the invention and the prior art as a whole. *See* M.P.E.P. § 2141(II)(B).

As discussed in the previous section, Bernardin does not teach or suggest the above-quoted features recited in claim 26. Likewise, Olofsson does not teach or suggest the above-quoted features recited in claim 26, and the Final Office Action does not allege otherwise. Therefore, Olofsson does not cure the deficiencies of Bernardin. Bernardin and Olofsson, whether taken alone or in combination, fail to disclose or suggest each and every element recited in independent claim 26. Accordingly, independent claim 26 is nonobvious over the cited references, and should be allowable. In addition, dependent claims 31-43 should be allowable at least by virtue of their dependence from base claim 26, and because they recite additional features not taught or suggested by Bernardin and Olofsson. Applicants therefore respectfully request withdrawal of the 35 U.S.C. § 103(a) rejection.

Conclusion

Pending claims 26, 27, and 30-50 are not anticipated or rendered obvious by the cited references. Applicants therefore respectfully request reconsideration of this application and the timely allowance of the pending claims.

The Final Office Action contains a number of statements reflecting characterizations of the related art and the claims. Regardless of whether any such statement is identified herein, Applicants decline to automatically subscribe to any statement or characterization in the Final Office Action.

If there are any remaining issues or misunderstandings, Applicants request the Examiner telephone the undersigned representative to discuss them.

Please grant any extensions of time required to enter this response and charge any additional required fees to Deposit Account 06-0916.

Respectfully submitted,

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